

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 11, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SUSAN M.,¹

Plaintiff,

v.

KILOLO KIJAKAZI, ACTING
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

No. 2:20-CV-0419-ACE

ORDER GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

ECF No. 17, 18

BEFORE THE COURT are cross-motions for summary judgment.

ECF No. 17, 18. Attorney Christopher H. Dellert represents Susan M. (Plaintiff); Special Assistant United States Attorney Martha A. Boden represents the Commissioner of Social Security (Defendant). The parties have consented to proceed before a magistrate judge. ECF No. 5. After reviewing the administrative record and the briefs filed by the parties, the Court **GRANTS** Defendant's Motion for Summary Judgment and **DENIES** Plaintiff's Motion for Summary Judgment.

JURISDICTION

In 2018, Plaintiff filed applications for Disability Insurance Benefits and Supplemental Security Income alleging disability since January 1, 2015, due to PTSD, borderline personality disorder, anxiety, social isolation, anger management

¹To protect the privacy of plaintiffs in social security cases, the undersigned identifies them by only their first names and the initial of their last names. See LCivR 5.2(c).

1 issues, easily agitated, depression, sleep disorder/insomnia, racing thoughts, and
2 low blood pressure. Tr. 236, 241, 274. Plaintiff later amended the alleged
3 disability onset date to August 15, 2017. Tr. 33. The applications were denied
4 initially and upon reconsideration. Administrative Law Judge (ALJ) Mark Kim
5 held a hearing on May 6, 2020, Tr. 29-61, and issued an unfavorable decision on
6 May 21, 2020, Tr. 15-24. The Appeals Council denied Plaintiff's request for
7 review on September 8, 2020. Tr. 1-6. The ALJ's May 2020 decision thus became
8 the final decision of the Commissioner, which is appealable to the district court
9 pursuant to 42 U.S.C. § 405(g). Plaintiff filed this action for judicial review on
10 November 10, 2020. ECF No. 1.

11 STATEMENT OF FACTS

12 Plaintiff was born on November 21, 1976, Tr. 236, and was 40 years old on
13 the amended disability onset date, August 15, 2017, Tr. 33. She completed school
14 through the 11th grade, attending special education classes, and had not earned a
15 GED. Tr. 36, 275. Plaintiff's disability report indicates she stopped working on
16 June 1, 2015, because of her conditions. Tr. 275. Plaintiff testified at the
17 administrative hearing she had problems with her right hand and was unable to lift
18 anything over 10 pounds or type or write very much without causing pain.
19 Tr. 37-38, 48. She additionally complained of low back pain, Tr. 39, 41, and
20 described mental health issues, Tr. 42-45. For hand pain, Plaintiff had been
21 prescribed physical therapy and took Tylenol and ibuprofen. Tr. 41-42. She also
22 used warm water and massaged her hand to relieve pain. Tr. 49. With respect to
23 her mental impairments, Plaintiff indicated medications had helped "a little bit."
24 Tr. 44, 45.

25 STANDARD OF REVIEW

26 The ALJ is tasked with "determining credibility, resolving conflicts in
27 medical testimony, and resolving ambiguities." *Andrews v. Shalala*, 53 F.3d 1035,
28 1039 (9th Cir. 1995). The ALJ's determinations of law are reviewed *de novo*, with

1 deference to a reasonable interpretation of the applicable statutes. *McNatt v. Apfel*,
2 201 F.3d 1084, 1087 (9th Cir. 2000). The decision of the ALJ may be reversed
3 only if it is not supported by substantial evidence or if it is based on legal error.
4 *Tackett v. Apfel*, 180 F.3d 1094, 1097 (9th Cir. 1999). Substantial evidence is
5 defined as being more than a mere scintilla, but less than a preponderance. *Id.* at
6 1098. Put another way, substantial evidence “is such relevant evidence as a
7 reasonable mind might accept as adequate to support a conclusion.” *Richardson v.*
8 *Perales*, 402 U.S. 389, 401 (1971), quoting *Consolidated Edison Co. v. NLRB*, 305
9 U.S. 197, 229 (1938). If the evidence is susceptible to more than one rational
10 interpretation, the Court may not substitute its judgment for that of the ALJ.
11 *Tackett*, 180 F.3d at 1098; *Morgan v. Commissioner of Social Sec. Admin.*, 169
12 F.3d 595, 599 (9th Cir. 1999). If substantial evidence supports the administrative
13 findings, or if conflicting evidence supports a finding of either disability or non-
14 disability, the ALJ’s determination is conclusive. *Sprague v. Bowen*, 812 F.2d
15 1226, 1229-1230 (9th Cir. 1987). Nevertheless, a decision supported by
16 substantial evidence will be set aside if the proper legal standards were not applied
17 in weighing the evidence and making the decision. *Brawner v. Secretary of Health*
18 and Human Services, 839 F.2d 432, 433 (9th Cir. 1988).

19 **SEQUENTIAL EVALUATION PROCESS**

20 The Commissioner has established a five-step sequential evaluation process
21 for determining whether a person is disabled. 20 C.F.R. § 416.920(a); *Bowen v.*
22 *Yuckert*, 482 U.S. 137, 140-142 (1987). In steps one through four, the claimant
23 bears the burden of establishing a prima facie case of disability benefits. *Tackett*,
24 180 F.3d at 1098-1099. This burden is met once a claimant establishes that a
25 physical or mental impairment prevents the claimant from engaging in past
26 relevant work. 20 C.F.R. § 416.920(a)(4). If a claimant cannot perform past
27 relevant work, the ALJ proceeds to step five, and the burden shifts to the
28 Commissioner to show (1) that Plaintiff can perform other substantial gainful

1 activity and (2) that a significant number of jobs exist in the national economy
 2 which Plaintiff can perform. *Kail v. Heckler*, 722 F.2d 1496, 1497-1498 (9th Cir.
 3 1984). If a claimant cannot make an adjustment to other work in the national
 4 economy, the claimant will be found disabled. 20 C.F.R. § 416.920(a)(4)(v).

ADMINISTRATIVE DECISION

6 On May 21, 2020, the ALJ issued a decision finding Plaintiff was not
 7 disabled as defined in the Social Security Act.

8 At step one, the ALJ found Plaintiff had not engaged in substantial gainful
 9 activity since August 15, 2017, the alleged disability onset date. Tr. 17.

10 At step two, the ALJ determined Plaintiff had the following severe
 11 impairments: major depressive disorder, generalized anxiety disorder, borderline
 12 personality disorder, right de Quervain's disease, and obesity. Tr. 17.

13 At step three, the ALJ found Plaintiff did not have an impairment or
 14 combination of impairments that meets or medically equals the severity of one of
 15 the listed impairments. Tr. 18.

16 The ALJ assessed Plaintiff's Residual Functional Capacity (RFC) and found
 17 Plaintiff could perform light exertion level work with the following limitations:
 18 she could never crawl or climb ladders, ropes, or scaffolds; could only occasionally
 19 stoop and climb flights of stairs; could frequently handle and finger objects with
 20 her dominant right hand; must avoid all exposure to extreme cold temperatures,
 21 excessive vibrations, and unprotected heights; and could perform only simple,
 22 routine, unskilled tasks involving only occasional and superficial interaction with
 23 the public. Tr. 19.

24 At step four, the ALJ found Plaintiff was not able to perform any past
 25 relevant work. Tr. 22.

26 At step five, the ALJ determined that, based on the testimony of the
 27 vocational expert, and considering Plaintiff's age, education, work experience, and
 28 RFC, Plaintiff was capable of making a successful adjustment to other work that

1 exists in significant numbers in the national economy, including the jobs of hotel
2 housekeeper, mail clerk, and office helper. Tr. 22-23.

3 The ALJ thus concluded Plaintiff was not under a disability within the
4 meaning of the Social Security Act at any time from August 15, 2017, the alleged
5 disability onset date, through the date of the ALJ's decision, May 21, 2020.
6 Tr. 23-24.

7 ISSUES

8 The question presented is whether substantial evidence supports the ALJ's
9 decision denying benefits and, if so, whether that decision is based on proper legal
10 standards.

11 Plaintiff asserts the ALJ erred: (1) in his consideration of Plaintiff's
12 allegations about the severity and functional impact of her de Quervain's disease;
13 and (2) in his weighing of the medical opinion evidence related to Plaintiff's
14 mental impairments. ECF No. 17 at 2.

15 DISCUSSION

16 A. Plaintiff's Subjective Complaints

17 Plaintiff challenges the ALJ's rejection of her subjective allegations.
18 ECF No. 17 at 5-12. Defendant responds that the ALJ reasonably evaluated
19 Plaintiff's subjective complaints. ECF No. 18 at 3-8.

20 It is the province of the ALJ to make credibility determinations. *Andrews*,
21 53 F.3d at 1039. However, the ALJ's findings must be supported by specific
22 cogent reasons. *Rashad v. Sullivan*, 903 F.2d 1229, 1231 (9th Cir. 1990). Absent
23 affirmative evidence of malingering, the ALJ's reasons for rejecting the claimant's
24 testimony must be "clear and convincing." *Lester v. Chater*, 81 F.3d 821, 834 (9th
25 Cir. 1996). "General findings are insufficient: rather the ALJ must identify what
26 testimony is not credible and what evidence undermines the claimant's
27 complaints." *Lester*, 81 F.3d at 834; *Dodrill v. Shalala*, 12 F.3d 915, 918 (9th Cir.
28 1993).

1 In this case, the ALJ found Plaintiff's medically determinable impairments
2 could reasonably be expected to cause the alleged symptoms; however, Plaintiff's
3 statements concerning the intensity, persistence and limiting effects of those
4 symptoms were not entirely consistent with the medical and other evidence of
5 record. Tr. 20.

6 The ALJ first determined Plaintiff's allegations of disabling impairments
7 were not consistent with the objective medical evidence of record. Tr. 20-22.

8 A lack of supporting objective medical evidence is a factor which may be
9 considered in evaluating an individual's credibility, provided it is not the sole
10 factor. *Bunnell v. Sullivan*, 947 F.2d 341, 345 (9th Cir. 1991); *Robbins v. Soc. Sec.*
11 *Admin.*, 466 F.3d 880, 883 (9th Cir. 2006).

12 Although Plaintiff asserts the ALJ erred by failing to properly consider her
13 physical impairment (the impact of de Quervain's disease on her right hand),
14 ECF No. 17 at 6-7, the ALJ noted the record reflected right hand injuries and
15 treatment, but that there was no evidence of any treatment or complaint beyond
16 August 2018, Tr. 20. Moreover, Plaintiff's disability report fails to mention a
17 physical condition that limited her ability to work, Tr. 274, yet the ALJ still found
18 right de Quervain's to be a severe impairment, Tr. 17, and limited Plaintiff to
19 frequent handling and fingering with her dominant right hand, Tr. 19. The
20 objective medical evidence reflects no greater limitations with respect to Plaintiff's
21 right hand.

22 The ALJ also found that while Plaintiff had sought treatment for depression
23 and anxiety, these conditions had repeatedly been listed as "mild" with no
24 significant depressive or anxiety complaints or limitations. Tr. 20, 21. Plaintiff
25 has not contested this finding by the ALJ. The Court ordinarily will not consider
26 matters on appeal that are not specifically challenged in an opening brief,
27 *Carmickle v. Comm'r Soc. Sec. Admin.*, 533 F.3d 1155, 1161 n.2 (9th Cir. 2008),
28 and will not "manufacture arguments for an appellant," *Greenwood v. Fed.*

1 *Aviation Admin.*, 28 F.3d 971, 977 (9th Cir. 1994). Because the Court will not
2 consider claims that are not specifically and distinctly argued in an opening brief,
3 any contention that the ALJ erred by discrediting Plaintiff's claims based on a lack
4 of supporting objective medical evidence regarding her mental health is deemed
5 waived.

6 The Court finds substantial evidence supports the ALJ's finding that the
7 objective medical evidence of record demonstrates Plaintiff was not as limited as
8 she alleged.

9 The ALJ also held that while Plaintiff was treated for a right hand injury in
10 August 2017, there was no evidence Plaintiff sought treatment or complained
11 about hand issues beyond August 2018. Tr. 20.

12 In assessing a claimant's subjective complaints, an ALJ properly relies upon
13 "unexplained or inadequately explained failure to seek treatment or to follow a
14 prescribed course of treatment." *Tommasetti v. Astrue*, 533 F.3d 1035, 1039 (9th
15 Cir. 2008) (quoting *Smolen v. Chater*, 80 F.3d 1273, 1284 (9th Cir. 1996)); *Fair v.*
16 *Bowen*, 885 F.2d 597, 603 (9th Cir. 1989). "[I]f the frequency or extent of the
17 treatment sought by an individual is not comparable with the degree of the
18 individual's subjective complaints, or if the individual fails to follow prescribed
19 treatment that might improve symptoms, we may find the alleged intensity and
20 persistence of an individual's symptoms are inconsistent with the overall evidence
21 of record." SSR 16-3p. Moreover, an "unexplained, or inadequately explained,
22 failure to seek treatment may be the basis for an adverse credibility finding unless
23 one of a 'number of good reasons for not doing so' applies." *Orn v. Astrue*,
24 495 F.3d 625, 638 (9th Cir. 2007).

25 Plaintiff's briefing concedes the record reflects Plaintiff last reported issues
26 related to her hand in August 2018, she was given a corticosteroid injection and
27 advised to wear a splint, she was instructed to follow-up as needed, and there is no
28 indication in the record of anything further related to her right hand. ECF No. 17

1 at 10. Because there was no evidence of any treatment or complaint regarding
2 Plaintiff's right hand beyond August 2018 (18 months prior to the administrative
3 hearing), the ALJ appropriately noted this failure to seek treatment as rationale for
4 discounting her subjective complaints.

5 The ALJ additionally mentioned Plaintiff's reports of doing well following
6 treatment on her hand and a stabilization of her mental health symptoms.

7 Tr. 20-21.

8 An ALJ may rely on the effectiveness of treatment to find a plaintiff's
9 testimony unpersuasive. *See Morgan v. Comm'r of Social Sec. Admin.*, 169 F.3d
10 595, 599-600 (9th Cir. 1999) (an ALJ may properly rely on a report that a
11 plaintiff's symptoms improved with the use of medication); *Odle v. Heckler*, 707
12 F.2d 439, 440 (9th Cir. 1983) (noting impairments that are controlled by treatment
13 cannot be considered disabling).

14 Plaintiff had received treatment for a right hand injury in August 2017. In
15 January 2018, she underwent a procedure for flexor tendon tenolysis FDP and
16 FDS² of the right little finger. Tr. 461. In August 2018, Plaintiff presented with
17 right thumb pain following her performance of "a lot of repetitive activity around
18 her house and yard." Tr. 436. She was given a corticosteroid injection and
19 advised to wear a splint. Tr. 437. As stated above, there is no further record
20 evidence pertaining to Plaintiff's right hand beyond August 2018. This suggests
21 Plaintiff's right hand issues had resolved or improved significantly following
22 treatment; a valid reason for discounting Plaintiff's subjective complaints.

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25 ²Flexor Digitorum Profundus (FDP) is the muscle in the forearm that flexes
26 the fingers. Flexor Digitorum Superficialis (FDS) is the middle muscle on the
27 anterior side of the forearm that is the primary flexor of the joints of the middle
28 phalanges (digits 2-5).

1 With respect to Plaintiff's mental health complaints, Plaintiff was first
 2 referred for a mental health evaluation by her primary care physician in March
 3 2017. Tr. 20, 336. Plaintiff was diagnosed with major depressive disorder,
 4 recurrent episode, but mild in severity. Tr. 20, 341. She was started on Celexa.³
 5 Tr. 342. The ALJ indicated Plaintiff subsequently faced situational stressors, but
 6 also noted Plaintiff had since been assessed as stable and her depression as mild in
 7 severity. Tr. 21. Plaintiff, again, has not specifically contested these findings by
 8 the ALJ. *See Carmickle*, 533 F.3d at 1161 (the Court will not ordinarily consider
 9 matters on appeal that were not specifically and distinctly argued in a party's
 10 opening brief). Plaintiff's improved mental health following treatment was an
 11 additional valid reason, supported by substantial evidence, for discounting
 12 Plaintiff's subjective complaints.

13 The ALJ is responsible for reviewing the evidence and resolving conflicts or
 14 ambiguities in testimony. *Magallanes v. Bowen*, 881 F.2d 747, 751 (9th Cir.
 15 1989). It is the role of the trier of fact, not this Court, to resolve conflicts in
 16 evidence. *Richardson*, 402 U.S. at 400. The Court has a limited role in
 17 determining whether the ALJ's decision is supported by substantial evidence and
 18 may not substitute its own judgment for that of the ALJ even if it might justifiably
 19 have reached a different result upon *de novo* review. 42 U.S.C. § 405(g). After
 20 reviewing the record, and based on the foregoing, the Court finds that the ALJ
 21 provided clear and convincing reasons, which are fully supported by the record, for
 22 finding Plaintiff's symptom allegations were not entirely credible in this case.

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26 ³Plaintiff testified at the administrative hearing that medications had helped
 27 her mental health "a little bit." Tr. 44, 45; *see also* Tr. 506 ("Celexa taking –
 28 notices improvement").

1 **B. Albert Wertz, D.O.**

2 Plaintiff next contends the ALJ erred by failing to give legally sufficient
3 reasons for rejecting the medical opinions of Albert Wertz, D.O., regarding
4 Plaintiff's mental impairments. ECF No. 17 at 12-16. Defendant responds that the
5 ALJ reasonably evaluated the medical evidence of record. ECF No. 18 at 8-17.

6 For claims filed on or after March 27, 2017, new regulations apply that
7 change the framework for how an ALJ must weigh medical opinion evidence.

8 *Revisions to Rules Regarding the Evaluation of Medical Evidence*, 2017 WL
9 168819, 82 Fed. Reg. 5844 (Jan. 18, 2017); 20 C.F.R. § 416.920c. The new
10 regulations provide the ALJ will no longer give any specific evidentiary weight to
11 medical opinions or prior administrative medical findings, including those from
12 treating medical sources. 20 C.F.R. § 416.920c(a). Instead, the ALJ will consider
13 the persuasiveness of each medical opinion and prior administrative medical
14 finding, regardless of whether the medical source is an acceptable medical source.
15 20 C.F.R. § 416.920c(c). The ALJ is required to consider multiple factors,
16 including supportability, consistency, the source's relationship with the claimant,
17 any specialization of the source, and other factors (such as the source's familiarity
18 with other evidence in the file or an understanding of Social Security's disability
19 program). *Id.* The regulations make clear that the supportability and consistency
20 of the opinion are the most important factors, and the ALJ must articulate how she
21 considered those factors in determining the persuasiveness of each medical opinion
22 or prior administrative medical finding. 20 C.F.R. § 416.920a(b). The ALJ may
23 explain how she considered the other factors, but the ALJ is not required to except
24 in cases where two or more opinions are equally well-supported and consistent
25 with the record. *Id.*

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1 Supportability and consistency are further explained in the regulations as
2 follows:

3 (1) *Supportability*. The more relevant the objective medical evidence
4 and supporting explanations presented by a medical source are to
5 support his or her medical opinion(s) or prior administrative medical
6 finding(s), the more persuasive the medical opinions or prior
7 administrative medical finding(s) will be.

8 (2) *Consistency*. The more consistent a medical opinion(s) or prior
9 administrative medical finding(s) is with the evidence from other
10 medical sources and nonmedical sources in the claim, the more
11 persuasive the medical opinion(s) or prior administrative medical
12 finding(s) will be.

13 20 C.F.R. § 416.920c(c).

14 On June 11, 2018, Dr. Wertz completed a “Mental Source Statement” for
15 Plaintiff. Tr. 500-502. Dr. Wertz opined Plaintiff was markedly limited in
16 multiple functional domains, would likely be off task over 30% of the time during
17 a 40-hour workweek, and would miss four or more days of work per month.
18 Tr. 500-502. Dr. Wertz commented Plaintiff struggled with simple medication
19 management and participation in her recovery due to poor coping skills and mental
illness. Tr. 502.

20 The ALJ found the opinion of Dr. Wertz unpersuasive, noting Plaintiff’s
21 mental health diagnoses and symptomatology would be outside his area of
22 expertise, his opinion that Plaintiff was “markedly” limited in several mental
23 activities was unsupported, and his assessment was not consistent with Plaintiff’s
24 treatment records. Tr. 21-22.

25 As to supportability, as noted by the ALJ, Dr. Wertz provided no objective
26 support for his findings that Plaintiff’s mental activities were “markedly” limited.
27 Tr. 21. The “Mental Source Statement” completed by Dr. Wertz, Tr. 500-502, is a
28 check-box form with no explanation or analysis provided for the conclusions he

1 reached on the form. *See Crane v. Shalala*, 76 F.3d 251, 253 (9th Cir. 1996)
2 (stating that the ALJ's rejection of a check-off report that did not contain an
3 explanation of the bases for the conclusions made was permissible). Dr. Wertz'
4 only comment on the form is as follows: "Patient struggles w/simple med
5 management and participation in her recovery due to poor coping skills and mental
6 illness." Tr. 502. This comment does not provide an adequate basis for the
7 multiple marked limitations assessed on the form. Dr. Wertz' opinion that Plaintiff
8 had marked limitations and substantial work-related restrictions is not supported.

9 With respect to consistency, the ALJ determined Dr. Wertz' marked
10 limitation findings and work-related restrictions were inconsistent with Plaintiff's
11 treatment records showing her counseling revolved around her relationships and
12 current living hardships, with no significant complaints or limitations from
13 depression and anxiety, which continued to be characterized as mild. Tr. 21-22.

14 Plaintiff was first referred for a mental health evaluation in March 2017.
15 Tr. 336. Plaintiff was diagnosed with major depressive disorder, recurrent episode,
16 but mild in severity and was started on Celexa. Tr. 341-342. Plaintiff thereafter
17 reported she noticed improvement from taking mental health medications.
18 Tr. 44, 45, 506. As noted by the ALJ, Plaintiff subsequently faced situational
19 stressors, but had since been assessed as stable and her depression as mild in
20 severity. Tr. 21, 341 (noted situational stressors and diagnosed major depressive
21 disorder, recurrent episode, but mild in severity), 377-378 (same), 409, 508 (noting
22 Plaintiff was calm, relaxed, and joking appropriately), 587-588 (noting situational
23 stressors, but that she "puts a smile on her face and keeps going"), 708. The ALJ
24 also found persuasive the opinions of other medical professionals regarding
25 Plaintiff's mental health. Tr. 21. State agency psychological consultants Jan L.
26 Lewis, Ph.D., and Edward Beaty, Ph.D., opined Plaintiff could perform simple one
27 to three step tasks and complex, detailed tasks with adequate concentration,
28 persistence, and pace for two-hour intervals in the work setting, although her

1 concentration, persistence, and pace may be disrupted at times due to her
 2 symptoms. Tr. 72, 98. These medical records contrast with the more extreme
 3 findings noted on Dr. Wertz' "Mental Source Statement." Tr. 500-502.

4 Dr. Wertz's opinions were not consistent with the foregoing medical
 5 evidence.

6 The ALJ also mentioned Plaintiff's mental health diagnoses and
 7 symptomatology would be outside of Dr. Wertz' area of expertise. Tr. 21. The
 8 fact that all or part of a medical opinion is outside the scope of the opining medical
 9 professional's expertise is a valid reason to discredit that medical opinion. *See*
 10 *Bollinger v. Barnhart*, 178 Fed. App'x 745, 746 n. 1 (9th Cir. 2006) (holding that
 11 an ALJ properly discounted a psychologist's opinion regarding physical limitations
 12 because it was beyond the psychologist's expertise); *Holohan v. Massanari*, 246
 13 F.3d 1195, 1203 n. 2 (9th Cir. 2001) ("[A] treating physician's opinion on some
 14 matter may be entitled to little if any weight . . . if the treating physician . . . offers
 15 an opinion on a matter not related to her or his area of specialization."). Here,
 16 contrary to the ALJ's statement, Dr. Wertz, a psychiatrist, was qualified to evaluate
 17 Plaintiff's mental health. Nevertheless, given substantial evidence supports the
 18 ALJ's assessment of the supportability and consistency of Dr. Wertz' opinion, the
 19 Court finds this error by the ALJ is harmless. *See Johnson v. Shalala*, 60 F.3d
 20 1428, 1436 n.9 (9th Cir. 1995) (an error is harmless when the correction of that
 21 error would not alter the result). An ALJ's decision will not be reversed for errors
 22 that are harmless. *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005) (citing
 23 *Curry v. Sullivan*, 925 F.2d 1127, 1131 (9th Cir. 1991).

24 Based on the foregoing, the Court finds the ALJ provided sufficient rationale
 25 for finding unpersuasive the limitations assessed by Dr. Wertz on the June 2018
 26 Mental Source Statement form.

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CONCLUSION

Having reviewed the record and the ALJ's findings, the Court finds the ALJ's decision is supported by substantial evidence and free of error.

Accordingly, IT IS HEREBY ORDERED:

1. Defendant's Motion for Summary Judgment, ECF No. 18, is

GRANTED.

2. Plaintiff's Motion for Summary Judgment, ECF No. 17, is DENIED.

IT IS SO ORDERED. The District Court Executive is directed to file this Order and provide a copy to counsel for Plaintiff and Defendant. **Judgment shall be entered for DEFENDANT and the file shall be CLOSED.**

DATED August 11, 2022.



Alexander C. Ekstrom

ALEXANDER C. EKSTROM

UNITED STATES MAGISTRATE JUDGE